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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL (St.) No. 23694 OF 2006

FIRST APPEAL (St.) No. 23671 OF 2006

FIRST APPEAL (St.) No. 23683 OF 2006

FIRST APPEAL (St.) No. 1061 OF 2002

FIRST APPEAL No. 299 OF 2006

R.C. No. 1910 OF 2005

CIVIL APPLICATION No. 976 OF 2007

CIVIL APPLICATION No. 3238 OF 2002

CIVIL APPLICATION No. 3239 OF 2002

CIVIL APPLICATION No. 981 OF 2007

CIVIL APPLICATION No. 2304 OF 2007

CIVIL APPLICATION No. 2305 OF 2007

CIVIL APPLICATION No. 983 OF 2007

CIVIL APPLICATION No. 1693 OF 2006

CIVIL APPLICATION No. 818 OF 2006

CIVIL APPLICATION No. 977 OF 2006

Office notes, office memoranda of coram, appearances, Court's orders directions & Registrar's orders	Court's or **Judge's** order

Mrs. Neeta Karnik, for

appellant in F.A.(St.) No. 23694/2006, 23671/06 and 23683/06, Advocate for the applicant / appellant.

Mr. K. K. Tated, G.P. appellant in F.A. 299/06, R.C. No.1950/2005 & F.A.(St.) 1061/02 AND respondent-State (other matter).

Mr. H. P. Vyas, advocate for respondent 4 to 6, 9 in F.A. (St.) 23694/06, respondent No. 2 to 8 in F.A. 299/06, Respondent No. 4 to 10 in F.A.(St.) 23671/06

Mr. R. P. Walvekar, advocate for respondent No. 3 to 6, 7a to 7d in F.A.(St.) 23671/06.

CORAM: J. N. PATEL,
AND
A. A. SAYED, JJ.

DATE : APRIL 21, 2007.

P.C.:

. Heard the learned counsel for the appellant. He prays to dispose of all the 6 appeals by a common order, as the fact that the appellant (acquiring body), the Executive Engineer, Environment Engineering,

Jeevan Pradhikaran, was not joined as a party before the reference Court, which vitiates the order passed by the lower court, being the only point for determination in these appeals.

2. Heard. Delay condoned in filing the appeals which are taken up for admission. Admit. Application for leave to file appeals, heard along with appeals. Leave granted. These are the 3 appeals, preferred by the appellant acquiring body and in the same matter and in the same matter State of Maharashtra through whom the land came to be acquired for environment Engineering, Maharashtra Jeevan Pradhikaran (MJP), Division No.1 Kolhapur. The subject matter of the 3 appeals i.e.

particulars of the land, owners and compensation awarded are given, before the reference Court. Admittedly, acquiring body was not made a party, nor they were served with any notice. We need not dwell on the point of determination in detail, in this admitted situation. It is suffice to say that acquiring body is not only, a proper but necessary party before the Civil Court, to whom the reference is made, under the Land Acquisition Act. As it is a settled law, that the body for which acquisition is made if not impleaded as a party in the Civil Court to whom reference has been made by the Collector under S. 18 of the Land Acquisition Act, the impugned award stands

vitiated and will have to be quashed and set aside. This Court in a decision rendered in the case : **Maharashtra State Electricity Board, Jalgaon Vs. Pralhadsa Lahanusa Kashtriya and Anr. [2004 (1) Mh.L.J. 649]** held as under -

. "5. Following the law laid down by the Apex Court in the case of **Agra Development Authority (supra)** as well as **Abdul Rasak (supra)** we allow these appeals filed by the M.S.E.B. and quash and set aside the impugned award. All the Land Acquisition References, which were decided by the said common award, are hereby remanded to the Court of learned Civil Judge, Senior Division at Sangamner for fresh

determination, as expeditiously as possible and, in any case, within a period of six months from the date the parties appeared before it consequent to this order. The parties, including M.S.E.B., shall appear before the said Court on 10th February, 2003. The M.S.E.B. shall place its application for being impleaded as a respondent in all the concerned References and the Court below shall pass an order on the said application, on that day itself, impleading the Applicant M.S.E.B. as an additional respondent. No fresh notice shall be necessary to be issued to the M.S.E.B. after this application is allowed.

. 6. Needless to mention, all the parties concerned shall be entitled to bring on record evidence or additional evidence in support of their respective claims and the compensation amount, if has been paid pursuant to the award impugned in these appeals, shall be subject to the fresh award to be passed by the Court below."

3. Therefore, we dispose of all the 6 appeals by quashing and setting aside the impugned awards and remand the matter to he learned Civil Judge, S.D. Kolhapur, who is dealing with the cases referred under section 18 of the Land Acquisition Act, by the Collector, for fresh determination.

4. The learned counsel for the appellant acquiring body states that they will file an application for intervention before the reference Count in all the 3 matters on or before 30th June 2007, after giving due notice to the party. Parties are directed to appear on 2nd July 2007 before the reference Court. On appearance of the parties, the reference court would decide the matter afresh and pass an award without being influenced by the impugned order, which has been quashed and set aside in all the 3 cases. All the appeals stand disposed of accordingly, with no orders as to costs.

5. The owner of the land,

who were claimants of compensation and parties before the reference Court, are directed to deposit the amount of compensation, awarded to them under the impugned order, before the reference court on or before 30th June 2007. On failure to do so, it will be open for the reference Court to take appropriate steps to recover the said amount, from the respective parties, through the Collector under the Maharashtra Land Revenue Code. The Civil Court dealing with the reference would dispose of the reference expeditiously, considering the fact that most of the claimants are senio r citizens, subject to their depositing the amount of award already withdrawn by them. On the amounts

being deposited in the Civil court, the said amounts shall be deposited in a term deposit in a suitable nationalised bank, after hearing the learned counsel for the parties.

6. All pending Civil Applications stand dispose off accordingly.

[A. A. SAYED, J.] [**J. N. PATEL, J.]**